

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

DEPARTMENT OF HEALTH  
HEALTH SERVICES REGULATION

VS.

MICHAEL D. LABBADIA

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(HSR) 2004-17

**ADMINISTRATIVE DECISION**

**INTRODUCTION**

The above matter is before the Department of Health pursuant to a certain Administrative Hearing Notice issued by the Division of Health Services Regulation, Emergency Medical Technician Board (hereinafter “EMT”) against Michael D. Labbadia (hereinafter “Respondent”). The Department alleges that the Respondent fraudulently obtained his EMT license by providing false information on his original application for licensure dated May 17, 2002.

Specifically, the Department alleges that on or about February 14, 1992 in U.S. District Court, Case # 91093-01B this Respondent was convicted of conspiracy to possess with intent to distribute marijuana in excess of 100 kilograms. The Respondent was represented by attorney Peter Petrarca. The Department was represented by attorney Bruce McIntyre. The State offered twelve (12) exhibits and Respondent offered four (4) exhibits into evidence. The matter was heard before Hearing Officer Gregory A. Madoian, Esquire, on October 7, 2004. The Department further alleged that Respondent’s license should be revoked or otherwise disciplined pursuant to the *Rules and Regulations Relating to Emergency Medical Services*, specifically Regulation 16.1(g) which reads as follows:

16.1 The Director may deny an application for a license, revoke or suspend any license granted under the provisions of the Act and the rules and regulations herein for cause. For cause shall include but not be limited to the following when proof that a licensee:

(g) has violated any federal, state or local law.

### **FINDINGS OF FACT**

The Respondent's original application for licensure was signed and submitted by the Respondent to the Department of Health, Office of Emergency Medical Services (hereinafter "EMS") on or about May 17, 2002. The original application for licensure required the Respondent to answer whether or not he had been convicted of any violation of the law. As to that inquiry, this record is clear that the Respondent did not admit to, or place on his application, any reference to his 1992 conviction for violation of the Federal laws as against drug trafficking, which conviction was dated February 4, 1992.

Conversely, the Respondent testified at the time he submitted his application for licensure with the Department he was under the impression that he did not have a criminal record. He testified that he was advised by a National Guard recruitment officer that he had no such record. The Respondent maintained further that he was advised of this such information as early as May 2001 by Air National Guard recruiter, Richard Flamand. Mr. Flamand also testified on this record that he informed the Respondent that after a criminal background check conducted by his agency the Respondent's BCI, so-called, was clean. Obviously, the information received in May of 2001 by the Respondent from the National Guard recruitment officer was inaccurate. This record is abundantly clear as to the fact that in May

of 2001 the Respondent did have a Federal drug conviction on his record.

Consequently, the issue before the Hearing Officer is two-fold. Initially, the Hearing Officer must determine whether or not the Respondent procured his license as an EMT, so-called, by fraud or deceit.

Secondly, the Hearing Officer must determine whether or not the Respondent's federal conviction of a drug offense is grounds to revoke or otherwise discipline the Respondent's license pursuant to the *Rules and Regulations Relating to Emergency Medical Services*, specifically Section 16.1(g).

As to the first allegation, the Hearing Officer is troubled by the fact that the Respondent's application fails to reference the prior federal conviction. However, the testimony of the Respondent, and more importantly the Air National Guard recruitment officer, compels this Hearing Officer to find the license was not specifically procured under the guise of fraud or deceit. The Hearing Officer rules the failure to reference the conviction was due to a factual inaccuracy and not an intentional omission. In so holding, the Hearing Officer further rules that the record does not substantiate the State's position that this Respondent conspired with his brother to withhold this vital information. As such, the Hearing Officer now must address the provisions of the *Rules and Regulations Relating to Emergency Medical Services* for EMTs. In that regard, it is abundantly clear that the 1992 federal conviction of this Respondent for violation of federal drug trafficking laws is certainly a violation of Section 16.1(g) and the Hearing Officer so rules.

This being said, the Hearing Officer further finds the Respondent is guilty of unprofessional conduct as defined by the governing *Rules and Regulations Relating to*

*Emergency Medical Services* for EMTs. As such, the Hearing Officer is compelled to sanction this Respondent for said unprofessional conduct. The Hearing Officer determines that the appropriate penalty for such conduct is a two (2) year period of probation as against the Respondent's EMT license. In reaching this decision, the Hearing Officer gave weight to the fact that since the Respondent's release from prison following his 1992 conviction, he has not had further contact with law enforcement. Moreover, the record is devoid of any evidence which would give rise to any determination that the Respondent is guilty of any other unprofessional conduct.

As to the terms of the Respondent's probation, the Hearing Officer notes the following:

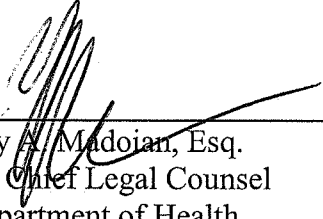
1. Said probation shall commence upon service of this Administrative Decision and will abate for the duration of any period in which Respondent ceases to be employed and/or performs volunteer services as an Emergency Medical Technician.
2. That during the period of probation Respondent shall notify the Department forthwith in the event that he is charged with any crime by any law enforcement agency in any jurisdiction. The Department reserves the right to take appropriate licensure action should Respondent be charged with a crime in any jurisdiction.
3. That during the period of probation should Respondent fail to comply with the provisions of Chapter 23-4.1 and/or the *Rules and Regulations Relating to Emergency Medical Services*, the Department shall initiate appropriate action with respect to Respondent's licensure status.

4. That during the period of probation Respondent's employers, including the Chief of the licensed Ambulance Service for which he is employed and/or serves as a volunteer, shall submit to the Department reports every six (6) months relating to Respondent's conduct and performance. That it shall be the responsibility of Respondent to have his employers submit said reports.
5. That during the period of probation should Respondent change employment and/or volunteer service, he shall notify the Department forthwith of said change including the name and address of the new employers and/or licensed ambulance service and the reason for the change in employment.

**IF YOU ARE AGGRIEVED BY THIS AGENCY ORDER, YOU MAY APPEAL THIS FINAL ORDER TO THE RHODE ISLAND SUPERIOR COURT WITHIN THIRTY (30) DAYS FROM THE DATE OF MAILING OF THIS NOTICE OF FINAL DECISION PURSUANT TO THE PROVISIONS FOR JUDICIAL REVIEW ESTABLISHED BY THE RHODE ISLAND ADMINISTRATIVE PROCEDURES ACT, SPECIFICALLY, R.I. GEN. LAWS § 42-35-15.**

Dated: \_\_\_\_\_

1/15/2024

  
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